

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ANDRES MASQUEDA SERRANO,

Plaintiff,

v.

ROBERT RUDAS, et al.,

Defendants.

Case No.: 1:22-cv-00950-KES-CDB

**ORDER TO SHOW CAUSE IN WRITING
WHY SANCTIONS SHOULD NOT BE
IMPOSED FOR PLAINTIFF'S FAILURE
TO FILE AN OPPOSITION OR
STATEMENT OF NON-OPPOSITION**

14-DAY DEADLINE

Plaintiff Andres Masqueda Serrano is proceeding pro se and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. This action proceeds against Defendant Rudas for violations of Plaintiff's constitutional rights.

I. INTRODUCTION

On July 10, 2024, the Court issued its Discovery and Scheduling Order. (Doc. 29.)

On November 8, 2024, Defendant filed a motion for administrative relief, seeking an extension of the deadline for filing a motion for summary judgment for a failure to exhaust administrative remedies. (Doc. 36.) On November 13, 2024, the Court granted Defendant's motion and extended the relevant deadline to December 2, 2024. (Doc. 38.)

On November 19, 2024, Defendant filed a motion for partial summary judgment based on Plaintiff's failure to exhaust administrative remedies. (Doc. 39.) Defendant's motion included a

1 *Rand*¹ warning (Doc. 39-3), specifically addressing the requirements concerning an opposition to
2 a motion for summary judgment. Despite the passage of more than 21 days, Plaintiff has failed to
3 file an opposition or statement of non-opposition to Defendant's motion.

4 **II. DISCUSSION**

5 Rule 56 of the Federal Rules of Civil Procedure concerns summary judgment. It provides,
6 in relevant part:

7 **Failing to Properly Support or Address a Fact.** If a party fails to
8 properly support an assertion of fact or fails to properly address
9 another party's assertion of fact as required by Rule 56(c), the court
may:

- 10 (1) give an opportunity to properly support or address the fact;
11 (2) consider the fact undisputed for purposes of the motion;
12 (3) grant summary judgment if the motion and supporting
13 materials—including the facts considered undisputed—show
that the movant is entitled to it; or
14 (4) issue any other appropriate order.

15 Fed. R. Civ. P. 56(e). This Court's Local Rules, corresponding with Federal Rule of Civil
16 Procedure 11, provide that a "[f]ailure of counsel or of a party to comply with these Rules or with
17 any order of the Court may be grounds for the imposition by the Court of any and all sanctions
18 authorized by statute or Rule or within the inherent power of the Court." *See* Local Rule 110.

19 Further, Local Rule 230 states:

20 Opposition, if any to the granting of a motion shall be served and
21 filed by the responding party not more than twenty-one (21) days
22 after the date of service of the motion. A responding party who has
23 no opposition to the granting of the motion shall serve and file a
statement to that effect, specifically designating the motion in
24 question. Failure of the responding party to file an opposition or
statement of no opposition may be deemed a waiver of any
opposition to the granting of the motion and may result in the
imposition of sanctions.

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26 Local Rule 230(l). Therefore, Plaintiff's opposition or statement of non-opposition to Defendant's
27 pending motion for partial summary judgment was due on or before December 10, 2024, plus time

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¹ *Rand v. Rowland*, 154 F.3d 952 (9th Cir. 1998).

1 for mailing. Plaintiff has failed to timely file an opposition or statement of non-opposition, and the
2 time to do so has now passed.

3 **III. CONCLUSION AND ORDER**

4 Accordingly, the Court **ORDERS** Plaintiff to show cause in writing, **within 14 days** of
5 the date of service of this order, why sanctions should not be imposed for his failure to comply
6 with the Local Rules. Alternatively, within that same time, Plaintiff may file an opposition or
7 statement of non-opposition to Defendants' motion for summary judgment filed November 19,
8 2024.

9 **Plaintiff is advised that a failure to respond to this Order may result in a**
10 **recommendation that this action be dismissed for a failure to obey court orders and a**
11 **failure to prosecute.**

12 IT IS SO ORDERED.

13 Dated: **December 18, 2024**

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UNITED STATES MAGISTRATE JUDGE